

AMENDMENT TO THE DRAWINGS

A replacement sheet containing revised Fig. 3 is attached herewith. In Fig. 3, a block labeled with “Analyze Traffic Unit” has been added to block 308 which represents the processor. Support for the amendment of Fig. 3 can be found at least on page 6, at lines 23-25, which refers to analysis carried out on traffic units by the processor 308. Therefore, no new matter has been added by this amendment.

Attachment: Replacement Drawing Sheet

REMARKS

Claims 1-2, 4-5, and 7-21 are pending.

Claims 3 and 6 have been cancelled.

Claims 22 and 23 have been added.

In the Office Action dated March 10, 2009, the drawings are objected to; claims 1, 9, 13, 15, and 19 were objected to; claims 10-12, 14, and 16-18 were rejected under 35 U.S.C. § 112, ¶ 1; claims 10-11, 16, and 17 were rejected under 35 U.S.C. § 112, ¶ 2; claim 12 was rejected under 35 U.S.C. § 101 and 35 U.S.C. § 112, ¶ 1; claims 1-2, 10-11, 13-15, and 19-21 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 7,155,502 (Galloway) in view of U.S. Patent No. 7,266,606 (Ganti).

OBJECTION TO THE DRAWING

Fig. 3 has been amended to address the objection by adding a block representing “Analyze Traffic Unit” in the block 308 that represents a processor.

Therefore, withdrawal of the drawing objection is respectfully requested.

CLAIM OBJECTION

The term “adapted” has been deleted from claims 1, 9, 13, 15, and 19 to address the claim objection. Therefore, withdrawal of the claim objection is respectfully requested.

REJECTION UNDER 35 U.S.C. § 112

With respect to claims 10, 14, 16, and 17, the Office Action argued that “first policy” and “second policy” have no support in the original specification. Applicant respectfully disagrees. For example, the specification notes that a group of services policers is arranged in stages to implement **multiple policies** on the data traffic of a single customer. Specification, page 7, lines 3-5. The “multiple policies” implemented by the services policers provide support for the first and second policies recited in the claims. Therefore, the § 112, ¶ 1, rejection of claims 10, 14, 16, and 17 is respectfully requested.

Claims 11 and 12 were rejected based on the allegation that the following phrase has no support in the original specification: “analyzing, by the upstream services policer, said second

traffic unit differently from the analyzing of the first traffic unit.” Applicant respectfully disagrees. Fig. 2 of the specification discloses various different types of policers, including an RTP policer 202, a gaming policer 204, an expedited forwarding COS policer 206, and so forth. As explained in detail starting at page 9, line 4 and continuing to page 11, line 5, of the specification, these different policers analyze traffic differently. Therefore, support clearly exists for the above claim feature in claims 11 and 12.

Therefore, withdrawal of the § 112 rejection of claims 11 and 12 is respectfully requested.

Claim 18 was rejected based on the allegation that “third policy” is not supported by the original specification. Applicant respectfully disagrees. The specification refers to arranging a group of services policers in stages to implement multiple policies of data traffic. Specification, page 7, lines 3-5. Fig. 2 of the specification shows more than three policers. Therefore, since there are more than three policers, there will be more than three policies implemented by these policers, such that support exists for “third policy” recited in claim 18. Therefore, withdrawal of the § 112, ¶ 1, rejection of claim 18 is respectfully requested.

REJECTION UNDER 35 U.S.C. § 112, ¶ 2

Claims 11, 16, and 17 have been amended to address the § 112, ¶ 2 rejections. Therefore, withdrawal of the § 112, ¶ 2 rejections is respectfully requested.

REJECTION UNDER 35 U.S.C. § 101

Claim 12 was rejected as purportedly not being directed to statutory subject matter. It is respectfully submitted that claim 12 is an *In Re Beauregard* claim that is clearly directed to statutory subject matter. The “computer readable storage medium” of claim 12 is an article of manufacture that contains computer-executable instructions that when executed by a processor cause the processor to perform the recited tasks. Contrary to the assertion by the Office Action, the “computer readable storage medium” cannot be considered merely a signal that is not tangibly embodied. In fact, the “computer readable storage medium” is a tangible medium that contains instructions executable by a processor to perform specific tasks. The Office Action also incorrectly stated that the claim is directed to non-functional descriptive material. The computer

readable storage medium tangibly embodies instructions that are executed by a processor to perform tasks – clearly, the computer readable storage medium contains functional material that causes a processor to perform the recited tasks.

It is clear that claim 12 is directed to statutory subject matter.

In view of the foregoing, withdrawal of the § 101 rejection and the accompanying § 112, ¶ 1, rejection of claim 12 is respectfully requested.

REJECTION UNDER 35 U.S.C. §103

It is respectfully submitted that the obviousness rejection of claim 1 over Galloway and Ganti is erroneous.

To make a determination under 35 U.S.C. § 103, several basic factual inquiries must be performed, including determining the scope and content of the prior art, and ascertaining the differences between the prior art and the claims at issue. *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 U.S.P.Q. 459 (1965). Moreover, as held by the U.S. Supreme Court, it is important to identify a reason that would have prompted a person of ordinary skill in the art to combine reference teachings in the manner that the claimed invention does. *KSR International Co. v. Teleflex, Inc.*, 127 S. Ct. 1727, 1741, 82 U.S.P.Q.2d 1385 (2007).

Here, it is respectfully submitted that even if Galloway and Ganti could be hypothetically combined, the hypothetical combination of the references would not have led to the claimed subject matter. As conceded by the Office Action, Galloway fails to disclose receiving feedback from a downstream services policer. 3/10/2009 Office Action at 8. In fact, claim 1 recites the following combination of elements:

- based on said analysis, transmit said traffic unit to said downstream services policer; and
- receive feedback from said downstream services policer.

Thus, it is noted that claim 1 specifically recites that the upstream services policer transmits a traffic unit to a downstream services policer, and the upstream services policer receives feedback from such downstream services policer (to which the upstream services policer has transmitted the traffic unit). With respect to claim 1, the Office Action cited policers 50 and 54 shown in Fig. 4 of Ganti. According to the Office Action, the “feedback” recited in claim 1

was equated with “feedback information R1 from the downstream service policer.” 3/10/2009 Office Action at 8. The information R1 in Ganti is a rate guarantee of the policer 50. The rate guarantee R1 is **not** feedback information from the policer 54. Thus, if the Office Action is arguing that the policer 50 of Ganti constitutes the upstream services policer of claim 1, and the policer 54 of Ganti constitutes the downstream services policer of claim 1, then there is absolutely no teaching whatsoever in Ganti of the policer 54 sending feedback information to the policer 50.

Therefore, even if Galloway and Ganti could be hypothetically combined, the hypothetical combination of references would not have led to the claimed subject matter.

In view of the foregoing, it is clear that the obviousness rejection of claim 1 is erroneous.

Independent claims 10, 12 and 13 are similarly allowable over Galloway and Ganti.

With respect to independent claim 14, neither Ganti nor Galloway provides any teaching of a third services policer that receives output from both a first services policer and a second services policer. The serial connection of policers 50-62 shown in Fig. 4 of Ganti illustrates the output of one policer being connected to the input of just a single other policer, with none of the policers receiving outputs of multiple policers. Therefore, since the hypothetical combination of Galloway and Ganti fails to disclose or hint at the subject matter of claim 14, claim 14 is non-obvious over Galloway and Ganti.

Dependent claims, including newly added dependent claims 22 and 23, are allowable over Galloway and Ganti for similar reasons as corresponding base claims.

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In view of the foregoing, allowance of all claims is respectfully requested. The Commissioner is authorized to charge any additional fees and/or credit any overpayment to Deposit Account No. 14-1315 (15791ROUS02U).

Respectfully submitted,

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